

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURTfor the
Southern District of Texas

Houston Division

United States Courts
Southern District of Texas
FILED**March 25, 2024**

Nathan Ochsner, Clerk of Court

BENJAMIN LACOUNT 11

Case No.

4:24cv1087

(to be filled in by the Clerk's Office)

Plaintiff(s) •

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

TEXAS A&M UNIVERSITY

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Benjamin LaCount II		
Address	2051 Positano Loop		
	Bryan	TX	77808
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Brazos		
Telephone Number	281-896-7769		
E-Mail Address	benlacount@gmail.com		

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	Texas A&M University		
Job or Title <i>(if known)</i>			
Address	P.O. Box 30018		
	College Station	TX	77842
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County	Brazos		
Telephone Number	979-845-1059		
E-Mail Address <i>(if known)</i>	registrar@tamu.edu		

☐ Individual capacity ☒ Official capacity

Defendant No. 2

Name			
Job or Title <i>(if known)</i>			
Address			
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
County			
Telephone Number			
E-Mail Address <i>(if known)</i>			

☐ Individual capacity ☐ Official capacity

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Defendant No. 3

Name _____

Job or Title (if known) _____

Address _____

City _____

State _____

Zip Code _____

County _____

Telephone Number _____

E-Mail Address (if known) _____

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name _____

Job or Title (if known) _____

Address _____

City _____

State _____

Zip Code _____

County _____

Telephone Number _____

E-Mail Address (if known) _____

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Rights afforded under Section 504 of the Rehabilitation Act of 1973, Section 508 of the Rehabilitation Act of 1973 [as referenced by Texas Administrative Code], and Title II of the Americans with Disabilities Act of 1990.

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

Not applicable.

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Texas A&M University is a public university in Texas whose actions related to education, discipline, or employment fall within the category of public function, and thus are acted under color of state law.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Texas A&M University
8447 Riverside Pkwy, Bryan, TX 77807

- B. What date and approximate time did the events giving rise to your claim(s) occur?

Thu, Sep 14, 2023, 2:16 PM
Mon, Jan 15, 2024, 3:43 PM

- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)

On September 14, 2023, Plaintiff requested captioning of lecture videos, due to disabilities he has registered with Defendant. Defendant stated they would determine what options are available. Defendant did not communicate to Plaintiff options available or provide captioning of lecture videos.

On January 13, 2024, Plaintiff contacted Defendant concerned about the lack of accommodations.

On January 15, 2024, Defendant stated that if Plaintiff had an auditory-related disability, they would meet to determine if captioning is appropriate, contrary to statements Defendant has on their accessibility web page. Plaintiff informed Defendant he would be proceeding with a formal complaint instead of meeting with Defendant.

On January 18, 2024, Defendant placed Plaintiff in a probation status despite telling the Plaintiff on December 22, 2023, that he would be "placed on academic warning because of your failure of [two] courses. This does not constitute being placed on probation; however, a subsequent failure would likely result in the institution of probation." Plaintiff failed no additional courses but was placed on probation after submitting his formal complaint.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

PERSONAL INJURIES

Psychological: Plaintiff struggled to keep up with his classmates throughout the semester, failed two courses, then was forced to transfer from his original class to a different one as well as retake courses Plaintiff passed. If Plaintiff scored 2 points higher in one course, Plaintiff could have continued his program. Instead, Plaintiff had to explain to his family that because he failed, Plaintiff's family would have to stay an additional year away from the rest of their support structure. Plaintiff's family moved away from their family and friends in order to support Plaintiff during his courses.

Financial: Cost of attendance in the Defendant's program, loss of future earning potential (delay of one year and probation status impacting competitiveness), cost of living during period between December 2023 and July 2024 (leave of absence Defendant placed Plaintiff in).

MEDICAL TREATMENT RECEIVED

Plaintiff is receiving on-going mental health treatment through the Department of Veteran Affairs, to include meeting with medical professionals and medication.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

No less than \$152,988 for:

- \$14,960: Cost of rent and utilities between December 2023 and July 2024
 - \$51,534: Cost of attendance at Texas A&M University
 - \$10,000: Loss of Future Earning Potential
 - \$76,494: Punitive Damages
 - Any further relief as may be just under the circumstances of this case.
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VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 03/15/2024

Signature of Plaintiff



Printed Name of Plaintiff

BENJAMIN LACOUNT II

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

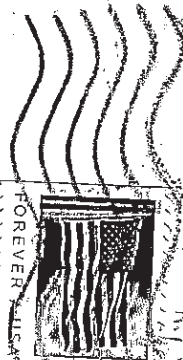
Telephone Number

E-mail Address

Benjamin Lubant II
2051 RISTANO LOOP
EAGAN, TX 77608

NATHAN OCHSNER
CLERK OF COURT
P.O. BOX 61010
HOUSTON, TX 77208

HOUSTON TX RPDC 773
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